IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 22370 of 2007(K)

PETITIONER:

K.K.MANOJ, U.D.CLERK,
OFFICE OF THE REGIONAL JOINT DIRECTOR OF URBAN AFFAIRS, KOZHIKODE.

BY ADV. SRI.S.JAYAKRISHNAN
SRI.V.PURUSHOTHAMA PANICKER

RESPONDENTS:

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1. THE SECRETARY TO GOVERNMENT, LOCAL SELF GOVERNMENT (A) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR, URBAN AFFAIRS DEPARTMENT PUBLIC OFFICE BUILDING, THIRUVANANTHAPURAM.

3. THE REGIONAL JOINT DIRECTOR OF URBAN AFFAIRS (NORTH REGION) KOZHIKODE.

4. SRI. V.S. MANOJ,U.D.CLERK, OFFICE OF THE DIRECTOR OF URBAN AFFAIRS,(ANNEX), PROVIDENT FUND WING, CORPORATION BUILDING, PALAYAM, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 22370 OF 2007-K

JUDGMENT

The petitioner and the 4th respondent are U.D. Clerks in the Municipal Common Service. The petitioner joined service as L.D. Clerk on 29.11.2000 and the 4th respondent joined the Department as L.D. Clerk on 18.3.1996. On completion of probation, the petitioner was promoted as U.D. Clerk on 22.1.2003. The 4th respondent, because of the delay from his part in clearing the obligatory tests, was promoted only on 7.11.2003. But, later, the said respondent was assigned seniority over the petitioner by Ext.P3 proceedings dated 15.6.2005. The aggrieved petitioner filed Ext.P5 representation. The same was considered by the Government and rejected by Ext.P6 order. This writ petition is filed, challenging Ext.P6.

2. The main ground of attack against the promotion granted to the 4th respondent was that he is not entitled to get test exemption, as he is one who joined service after 1.1.1986. So, the provisions of Rule 13AA of K.S. & S.S.R are not applicable to him. But, the Government in the impugned order found that the 4th respondent was entitled to get

the benefit of Rule 13A(1)(a) of K.S. & S.S.R. The Government held that irrespective of the date of joining duty, the members of the Scheduled Caste/Scheduled Tribe are entitled to get temporary promotion under the said Rule. So, even if the 4th respondent is not entitled to get the benefit of Rule 13AA, he has been rightly granted the benefit of Rule 13A(1)(a). On the basis of the said finding, Ext.P5 representation was rejected by Ext.P6 order. The petitioner attacks Ext.P6 on the same grounds raised by him in Ext.P5.

3. But, I feel that the view taken by the Government is in accordance with the Rules. Though, the 4th respondent may not be eligible for the benefits of Rule 13AA, he, like any other member of the Scheduled Caste, is entitled to get the benefit of Rule 13A(1)(a) and therefore, entitled to get temporary exemption from the test qualification for three years. So, he can be promoted during the said period, if he is otherwise qualified and eligible for promotion. So, the challenge against

Ext.P6 fails and accordingly, the writ petition is dismissed.

20th July, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/